

BRYAN CAVE LEIGHTON PAISNER LLP
THREE EMBARCADERO CENTER, 7TH FLOOR
SAN FRANCISCO, CA 94111-4070

K. Lee Marshall (SBN 277092)
Abigail Cotton (SBN 306121)
BRYAN CAVE LEIGHTON PAISNER LLP
Three Embarcadero Center, 7th Floor
San Francisco, CA 94111-4078
Telephone: (415) 675-3444
klmarshall@bclplaw.com
abby.cotton@bclplaw.com

David A. Roodman (appearance *pro hac vice*)
BRYAN CAVE LEIGHTON PAISNER LLP
One Metropolitan Square, 36th Floor
St. Louis, MO 63102
Telephone: (314) 259-2000
daroodman@bclplaw.com

Daniel P. Crane (appearance *pro hac vice*)
BRYAN CAVE LEIGHTON PAISNER LLP
Two North Central Avenue, Suite 2100
Phoenix, AZ 85004
Telephone: (602) 364-7000
dan.crane@bclplaw.com

Attorneys for Plaintiffs
Fluidigm Corporation and Fluidigm Canada Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FLUIDIGM CORPORATION, a Delaware
corporation; and FLUIDIGM CANADA INC.,
a foreign corporation,

Plaintiffs,

v.

IONPATH, INC., a Delaware corporation,

Defendant.

Case No. 3:19-cv-05639

**STIPULATION AND [PROPOSED]
ORDER TO EXTEND CERTAIN
DEADLINES**

Pursuant to Civil Local Rule 6-1(b), Plaintiffs, Fluidigm Corporation and Fluidigm Canada Inc. (collectively, “Fluidigm”), and Defendant IONpath, Inc. (“IONpath”) by and through their respective counsel, hereby stipulate as follows:

WHEREAS, the Court held the Initial Case Management Conference on January 23, 2020 (Dkt. 43);

WHEREAS, Fluidigm served Infringement Contentions on February 6, 2020 as required by Patent L.R. 3-1;

WHEREAS, Fluidigm filed its Motion for Leave to File Second Amended Complaint on February 13, 2020 as permitted by the Court (*see* Dkt. 46);

WHEREAS, IONpath sent a letter to Fluidigm’s counsel on February 11, 2020 identifying a number of respects in which IONpath believes Fluidigm’s infringement contentions fail to comply with Patent L.R. 3-1;

WHEREAS, the parties met and conferred on February 18, 2020 to discuss IONpath’s view that Fluidigm’s Infringement Contentions do not comply with Patent L.R. 3-1;

WHEREAS, while Fluidigm disagrees with IONpath’s contentions, Fluidigm has agreed to supplement its Infringement Contentions by February 24, 2020;¹

WHEREAS, IONpath seeks to extend the deadline to serve its invalidity contentions by 9 days (from March 23 to April 1, 2020) in view of Fluidigm’s supplemental Infringement Contentions, to which Fluidigm does not object;

WHEREAS, Fluidigm seeks to extend the deadline for the parties to each select a “showdown” claim (and for the Court to hold the CMC relating to the “showdown” claims) until a date after service of IONpath’s invalidity contentions (which Fluidigm asserts would put Fluidigm on an equal-footing by knowing IONpath’s contentions prior to selecting a claim for the “showdown”), to which IONpath does not object if the Court approves the requested extension

¹ The parties have agreed to Fluidigm supplementing its Infringement Contentions on February 24, 2020 with the understanding that Fluidigm’s supplementation requires Court approval pursuant to Patent L.R. 3-6.

1 and if the CMC is rescheduled to April 16, 2020;²

2 WHEREAS, the parties therefor agree and stipulate, subject to the Court's approval that:

3 (1) Fluidigm be granted leave to supplement/amend its Infringement Contentions on
4 February 24, 2020;

5 (2) IONpath's deadline to comply with Patent L.R. 3-3 and 3-4, be extended until April 1,
6 2020;

7 (3) the Claim selection deadline under the Court's "showdown" procedure pursuant to
8 Case Management Order Number 1 (Dkt. 45 at ¶ 1) be extended to April 8, 2020;

9 (4) the Court vacate and reset the Case Management Conference currently set for March
10 19 at 11:00 a.m. to April 16, 2020 at 11:00 a.m., with the parties' Case Management Statement
11 due seven days prior thereto;

12 WHEREAS, the parties are sensitive to the Court's schedule set forth in Case
13 Management Order Number 1 and respectfully seek the modest extensions to the above
14 referenced deadlines in order to allow for a full, fair, and prompt disclosure of the parties'
15 information and contentions as the parties prepare for early summary judgment motions on the
16 selected claims as part of the "showdown" procedure;

17 **IT IS HEREBY STIPULATED AND AGREED** by Fluidigm and IONpath, pursuant to
18 Civil Local Rule 6-1, to extend certain deadlines as follows:

- 19 1. Fluidigm shall serve its Amended Infringement Contentions on February 24, 2020;
- 20 2. IONpath shall serve its Patent Local Rule 3-3 and 3-4 disclosures by April 1, 2020;
- 21 3. The deadline for the parties to select and exchange one asserted claim for the
22 "showdown" shall be extended from March 5, 2020 to April 8, 2020;
- 23 4. The further case management conference set for March 19, 2020 shall be vacated
24 and a further case management conference shall be held on April 16, 2020 at 11:00
25 A.M., during which the parties shall present their selected claim. By April 9, 2020
26 at Noon, the parties shall file the joint case management statement according to

27 ² IONpath's counsel has requested that the CMC be rescheduled to no later than April 16, 2020
28 because IONpath's lead counsel begins trial before the Hon. Colm Connolly in the District of
Delaware on April 20, 2020.

Civil L.R. 16-10(d).

Dated: February 24, 2020

By: /s/Daniel P. Crane

K. Lee Marshall (SBN 277092)
Abigail Cotton (SBN 306121)
BRYAN CAVE LEIGHTON PAISNER LLP
Three Embarcadero Center, 7th Floor
San Francisco, CA 94111-4078
Telephone: (415) 675-3444
klmarshall@bclplaw.com
abby.cotton@bclplaw.com

David A. Roodman (appearance *pro hac vice*)
BRYAN CAVE LEIGHTON PAISNER LLP
One Metropolitan Square, 36th Floor
St. Louis, MO 63102
Telephone: (314) 259-2000
daroodman@bclplaw.com

Daniel P. Crane (appearance *pro hac vice*)
BRYAN CAVE LEIGHTON PAISNER LLP
Two North Central Avenue, Suite 2100
Phoenix, AZ 85004
Telephone: (602) 364-7000
dan.crane@bclplaw.com

Attorneys for Plaintiffs
Fluidigm Corporation and Fluidigm Canada
Inc.

By: /s/Joshua D. Furman

WILMER CUTLER PICKERING
HALE AND DORR LLP
SONAL N. MEHTA (SBN 222086)
Sonal.Mehta@wilmerhale.com
950 Page Mill Road
Palo Alto, California 94304
Telephone: (650) 858-6000
Facsimile: (650) 858-6100

OMAR A. KHAN (*pro hac vice*)
Omar.Khan@wilmerhale.com
7 World Trade Center
250 Greenwich Street
New York, New York 10007
Telephone: (212) 230-8800
Facsimile: (212) 230 8888

JOSEPH TAYLOR GOOCH (SBN 294282)
Taylor.Gooch@wilmerhale.com
JOSHUA D. FURMAN (SBN 312641)
Josh.Furman@wilmerhale.com
One Front Street, Suite 3500
San Francisco, California 94111
Telephone: (628) 235-1000
Facsimile: (628) 235-1001

Attorneys for Defendants IONpath, Inc.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

Honorable William Alsup
United States District Judge

SIGNATURE ATTESTATION

I am the ECF User whose identification and password are being used to file the foregoing Stipulation and [Proposed] Order. Pursuant to Civil Local Rule 5-1(i), I hereby attest that the other signatories have concurred in this filing.

Dated: February 24, 2020

By: /s/Daniel P. Crane
Daniel P. Crane

CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2020, I electronically filed the above document with the Clerk of the Court using CM/ECF which will send electronic notification of such filing to all registered counsel.

Dated: February 24, 2020

By: /s/Daniel P. Crane
Daniel P. Crane